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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

CHARLES MCCURDY,

Plaintiff,

v.

NATIONAL CREDIT ADJUSTERS,

Defendants.

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Civil Action No.: 4:15-cv-01677

PLAINTIFF’S MOTION TO VACATE DEFAULT AND DISMISS WITH PREJUDICE

Plaintiff, CHARLES MCCURDY (hereinafter “Plaintiff”), by and through his counsel, Kimmel & Silverman, P.C., hereby moves this Honorable Court to enter a Consent Order vacating the Default Judgment entered against Defendant on April 28, 2016 (Docket Entry No. 18) pursuant to an agreement by the parties and to issue an order dismissing this case with prejudice, each side to bear its own costs. In support of his Motion, Plaintiff states as follows:

1. On June 12, 2015, Plaintiff filed a Complaint against Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), and the Texas Debt Collections Practices Act, Tex. Fin. Code Ann. § 392.301 *et seq.* (“TFDCPA”). See Docket No. 1.

2. On August 10, 2015, Plaintiff filed the executed service of summons and Defendant’s Answer was due on August 21, 2015. See Docket No. 5.

3. Defendant failed to file an Answer and default was requested and entered on October 13, 2015. See Docket Entry Nos. 9 and 10.

4. On November 2, 2015, Plaintiff filed a Motion for Default Judgment. See Docket Entry No. 10.

1 5. The Court graciously granted the Motion and entered a final judgment against
2 Defendant in the amount of \$2,290.00 on April 28, 2016. See Docket Entry No. 18.

3 6. Subsequent to the entry of the default judgment, Plaintiff and Defendant
4 resolved this matter through a confidential agreement.

5 7. The parties' confidential agreement has completely resolved this case and
6 disposes of all claims.

7 8. Plaintiff has conferred with Defendant who consents to the relief requested in
8 this Motion.

9 9. Plaintiff requests that the Court decide this Motion on the papers without oral
10 argument.
11

12 WHEREFORE, for the reasons set forth herein, Plaintiff respectfully requests that this
13 Honorable Court vacate the default judgment entered on April 28, 2016 against NATIONAL
14 CREDIT ADJUSTERS, in the amount of \$2,290.00 and dismiss this case with prejudice, each
15 party to bear its own costs.
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19 Dated: January 4, 2017

Respectfully submitted,
/s/ Amy L. Bennecoff Ginsburg
Amy L. Bennecoff Ginsburg
Attorney-in-Charge for Plaintiff
Pennsylvania Bar No. 202745
Federal Bar No. 1477508
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CERTIFICATE OF SERVICE

I certify that on January 4, 2017, I electronically filed Plaintiff's Motion For Default Judgment with the Clerk of the U.S. District Court, Southern District of Texas using the electronic case filing system of the court and served a copy by electronic mail and placement in the U.S. Mail on Defendant National Credit Adjusters:

National Credit Adjusters, LLC
c/o Nik Moore
327 W. 4th Avenue
P.O. BOX 3023
Hutchinson, KS 67504
NMoore@ncaks.com

By: /s/ Amy Lynn Bennecoff Ginsburg
Amy Lynn Bennecoff Ginsburg, Esquire